

YOUNG CONAWAY STARGATT & TAYLOR, LLP

BEN T. CASTLE
SHELDON N. SANDLER
RICHARD A. LEVINE
RICHARD A. ZAPPA
FREDERICK W. IOBST
RICHARD H. MORSE
DAVID C. MCBRIDE
JOSEPH M. NICHOLSON
CRAIG A. KARSNITZ
BARRY M. WILLOUGHBY
JOSY W. INGERSOLL
ANTHONY G. FLYNN
JEROME K. GROSSMAN
EUGENE A. DIPRINZIO
JAMES L. PATTON, JR.
ROBERT L. THOMAS
WILLIAM D. JOHNSTON
TIMOTHY J. SNYDER
BRUCE L. SILVERSTEIN
WILLIAM W. BOWSER
LARRY J. TARABICOS
RICHARD A. DILIBERTO, JR.
MELANIE K. SHARP
CASSANDRA F. ROBERTS
RICHARD J.A. POPPER
TERESA A. CHEEK
NEILLI MULLEN WALSH

JANET Z. CHARLTON
ROBERT S. BRADY
JOEL A. WAITE
BRENT C. SHAFFER
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CRAIG D. GREAR
TIMOTHY JAY HOUSEAL
MARTIN S. LESSNER
PAULINE K. MORGAN
C. BARR FLINN
NATALIE WOLF
LISA B. GOODMAN
JOHN W. SHAW
JAMES P. HUGHES, JR.
EDWIN J. HARRON
MICHAEL R. NESTOR
MAUREEN D. LUKE
ROLIN P. BISSELL
SCOTT A. HOLT
JOHN T. DORSEY
M. BLAKE CLEARY
CHRISTIAN DOUGLAS WRIGHT
DANIELLE GIBBS
JOHN J. PASCHETTO
NORMAN M. POWELL
ELENA C. NORMAN

THE BRANDYWINE BUILDING
1000 WEST STREET, 17TH FLOOR
WILMINGTON, DELAWARE 19801

P.O. Box 391
WILMINGTON, DELAWARE 19899-0391

(302) 571-6600
(800) 253-2234 (DE ONLY)
FAX: (302) 571-1253

110 WEST PINE STREET
P.O. Box 594
GEORGETOWN, DELAWARE 19947
(302) 856-3571

(800) 255-2234 (DE ONLY)
FAX: (302) 856-9338

WWW.YOUNGCONAWAY.COM

DIRECT DIAL: (302) 571-6681
DIRECT FAX: (302) 576-3333
msharp@ycst.com

JOSEPH M. BARRY
SEAN M. BEACH
SANJAY BHATNAGAR
DONALD J. BOWMAN, JR.
MICHELE SHERRETTA BUDICAK
JEFFREY T. CASTELLANO
KARA HAMMOND COYLE
KRISTEN SALVATORE DEPALMA
MARGARET M. DIBIANCA
MARY F. DUGAN
ERIN EDWARDS
KENNETH J. ENOS
IAN S. FREDERICKS
JAMES J. GALLAGHER
SEAN T. GREECHER
STEPHANIE L. HANSEN
PATRICK A. JACKSON
DAWN M. JONES
KAREN E. KELLER
JENNIFER M. KINKUS
EDWARD J. KOSMOWSKI
JOHN C. KUFFEL

SPECIAL COUNSEL
JOHN D. McLAUGHLIN, JR.
KAREN L. PASCALE
PATRICIA A. WIDDOSS

TIMOTHY E. LENGKEEK
ANDREW A. LUNDGREN
MATTHEW B. LUNN
ADRIA B. MARTINELLI
KATHALEEN MCCORMICK
MICHAEL W. McDERMOTT
TAMMY L. MERCER
MARIBETH L. MINELLA
EDMON L. MORTON
D. FON MUTTAMARA-WALKER
JENNIFER R. NOEL
ADAM W. POFF
SETH J. REIDENBERG
SARA BETH A. REYBURN
CHERYL A. SANTANIELLO
(NJ & PA ONLY)
MONTÉ T. SQUIRE
MICHAEL P. STAFFORD
CHAD S.C. STOVER
JOHN E. TRACEY
TRAVIS N. TURNER
MARGARET B. WHITEMAN
SHARON M. ZIEG

SENIOR COUNSEL
CURTIS J. CROWTHER

OF COUNSEL
BRUCE M. STARGATT
STUART B. YOUNG
EDWARD B. MAXWELL, 2ND

November 8, 2007

BY E-FILE

The Honorable Joseph J. Farnan, Jr.
United States District Court, District of Delaware
844 North King Street
Wilmington, DE 19801

Re: NICE Systems, Inc. and NICE Systems, Ltd. v. Witness Systems, Inc.
C.A. No. 06-311 (JJF)

Dear Judge Farnan:

I write on behalf of my clients, Plaintiffs NICE Systems, Inc. and NICE Systems, Ltd. (collectively, "NICE"), in response to Witness' letter of November 8, 2007 (DI 252) objecting to the revised claim construction chart NICE submitted on November 6, 2007, and its nearly simultaneous letter of the same date to me advising that the amended chart did not capture certain adjustments to claim construction positions around the time of the claim construction hearing.

I write to advise that the following terms are agreed to and do not need to be construed:

telephone call segment

telephone call segments

lifetime of the telephone call

real-time link.

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The Honorable Joseph J. Farnan, Jr.

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In addition, Witness offered compromised constructions for additional terms as noted in the bottom third of the attached table prepared by its counsel.

All of the changes Witness requested today were made immediately to a November 8, 2007 Revised Joint Claim Construction Chart and circulated to Witness' counsel for review and approval. We anticipate Witness will confirm early tomorrow its approval so that we may promptly file the final chart for the benefit of the Court.

I apologize to Your Honor for any inconvenience caused because we did not capture, in our effort to update the chart Tuesday, those items Witness raised today. Obviously undersigned counsel is available should Your Honor have any questions.

Respectfully,

/s/ Melanie K. Sharp

Melanie K. Sharp (No. 2501)

MKS

cc: Clerk of the Court (by Hand Delivery)
William J. Marsden Jr., Esquire (by e-mail)

11/08/2007

03:37 PM

FISH & RICHARDSON P.C.

Melanie K. Sharp, Esq.

November 8, 2007

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Term	Discrepancy
real-time link	Witness Systems agreed to NICE's proposed construction of "real-time link": "a data link providing data regarding telephony events during the call at the occurrence of each telephony event."
telephone call segment	Witness Systems initially offered a construction of the singular, "telephone call segment," while NICE offered a construction of the plural, "telephone call segments."
telephone call segments	The parties agreed to constructions of both terms: "telephone call segments": "Portions of a telephone call that are each bounded by telephony events" and "telephone call segment": "Portion of a telephone call that is bounded by telephony events").
matching a received telephony event with a constructed call record	Witness Systems' proposed construction of this term differs from the construction in the parties' Amended Joint Claim Construction Chart. Witness Systems offered the following construction as a compromise: "Calculating to resolve an ambiguity as to whether a received telephony event is part of a constructed call record."
combining said updated call record with data indicating one or more locations of recorded audio data for two or more segments of the call	Witness Systems' proposed construction of this term differs from the construction in the parties' Amended Joint Claim Construction Chart. Witness Systems offered the following construction as a compromise: "Storing data indicating one or more locations of recorded audio data for two or more segments of the call in an updated call record, where the updated call record does not previously have such location data."
wherein at least two stages of the system are physically separable and in operation can be located wide distances apart	The parties agreed that this term does not require construction.
record of an input channel	Witness Systems' proposed construction of this term differs from the construction in the parties' Amended Joint Claim Construction Chart. Witness Systems offered the following construction as a compromise: "Record corresponding to an input channel."
record of a communication channel	Witness Systems' proposed construction of this term differs from the construction in the parties' Amended Joint Claim Construction Chart. Witness Systems offered the following construction as a compromise: "Record corresponding to a communication channel."